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09/706,592	11/03/2000	Joseph J. Kubler	DN38415R1	8640

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EXAMINER

CHANG, EDITH M

ART UNIT	PAPER NUMBER
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2634

DATE MAILED: 01/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/706,592

Applicant(s)

KUBLER ET AL.

Examiner

Edith M Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

The APPENDIX A is not appropriate to be included in the specification, since it is not a computer program code listing (MPEP 608.01(a)). It is suggested to add the APPENDIX A in an Information Disclosure Statement (IDS). Appropriate correction is required.

### *Claim Objections*

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 14 and 15 have been renumbered 13 and 14 respectively.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 5, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Brigida et al. (US 5535242).

Regarding **claim 1**, Brigida et al. discloses a method (Abstract) comprising: formatting the network establishment parameters into a standard modem command (column 2 line 67- column 3 line 7, where RSSI, SAT, and bit error are network establishment parameters), sending the standard modem command from a first device to a second device (Fig. 1 12 is the first device, 24-28 is the second device, column 1 lines 50-60), and extracting the network establishment parameters from the standard modem command (Fig. 4).

Regarding **claim 2**, Brigida et al. discloses at least part of the standard modem command is a command taken from the Hayes modem command set (column 1 lines 50-60).

Regarding **claim 5**, Brigida et al. discloses storing some of the network establishment parameters to memory (58 Fig. 3 where the command with the network establishment parameters stored).

Regarding **claim 10**, Brigida et al. discloses a method formatting wireless network establishment information into a standard modem command and sending the command to the device (Fig. 1 & Fig. 2 the wireless network and device, column 1 lines 50-60, column 2 lines 35- 51 where the wireless network establishment information such as RSSI, bit error rates formatted into a standard modem command/Hayes).

Regarding **claim 11**, Brigida et al. discloses a method establishing a communication link (20-22-22-24-28 Fig. 1 is the link) by formatting network establishment information into a standard modem command (column 1 lines 50-60, column 2 lines 35-51 where the network establishment information such as RSSI, bit error rates formatted into a standard modem

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command/Hayes) and sending the standard modem command to the radio device (20/22 Fig. 1 is the radio device) and communicating data over the communication link.

Regarding **claim 12**, Brigida et al. discloses a wireless communication system (Fig. 1) comprising: at least one first wireless device (12 Fig. 1 is the first device), at least one second wireless device (24-28 Fig. 1 is the second device), and at least one network establishment signal having network establishment information formatted into a standard modem command (column 1 lines 50-60, column 2 lines 35-51 where the network establishment information such as RSSI, bit error rates formatted into a standard modem command/Hayes, 90 Fig. 5 the display shows the signal having network establishment information formatted into a standard modem command, such as RSSI 92 Fig. 5, BER 94 Fig. 5), the wireless communication between the first and second wireless device is established when the signal is sent from the first device to the second (90 Fig. 5 the display shows the wireless communication between the first and second wireless device is established).

5. Claim 8-9, & 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Koscal (US 6327476).

Regarding **claim 8**, Koscal discloses a method creating a standard modem command by appending a Hayes modem command to a device command and sending the standard modem command to the device (column 38 lines 15-35, column 39 Table, wherein the BFxy is the device command appended to a Hayes modem command AT, and the command send to devices 114, 118 FIG. 1B).

Regarding **claim 9**, Koscal discloses a method creating a standard modem command by appending a Hayes modem command to a device command (column 38 lines 15-35, column 39 Table, wherein the BFxy is the device command appended to a Hayes modem command AT) in the first device (112 FIG.1B is the first device), sending the standard modem command from the first device to the second device, and extracting the device command in the second device (114/118 FIG.1B is the second device, column 38 lines 15-40).

Regarding **claim 13**, Koscal discloses a method comprising: creating a standard modem command by appending a modem interface command to a device command, and sending the standard modem command to the radio device (column 38 lines 15-35, column 39 Table, wherein the BFxy is the device command appended to a modem interface command AT, and the command send to the radio device 114, 118 FIG.1B & 1C).

Regarding **claim 14**, Koscal discloses a method comprising: creating a standard modem command by appending a modem interface command to a device command, and sending the standard modem command from the radio device (column 38 lines 15-35, column 39 Table, wherein the BFxy is the device command appended to a modem interface command AT, and the command send from the radio device 114, 118 FIG.1B & 1C to 102 FIG.1B).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brigida et al. (US 5535242) in view of Modem Handbook for the Communications Professional (Cass Lewart).

Regarding **claims 3 & 4**, Brigida et al. does not explicitly specify the start and dial commands which are adopted as the industry standard for modem commands, however Cass Lewart teaches the start and dial standard modem commands. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have the Cass Lewart's teaching in Brigida et al.'s method to provide the list of standard modem commands for compatibility.

8. Claims 6 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brigida et al. (US 5535242) in view of Koscal (US 6327476).

Regarding **claims 6 & 7**, Brigida et al. does not explicitly specify the memory types provided in the system including wireless/portable and desktop PCs (Fig.1), however Koscal teaches the memories for permanently or temporarily saving data (ROM/RAM FIG.3 & FIG.4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have the memories taught by Koscal in Brigida et al.'s system and method to enhancing the efficiency of handling modem commands in the radio or portable environment (column 1 lines 10-20 '242, Abstract '476).

### ***Conclusion***

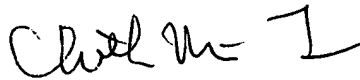
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edith M Chang whose telephone number is 703-305-3416. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4800.

Edith Chang  
December 31, 2003

  
**CHIEH M. FAN**  
**PRIMARY EXAMINER**